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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,243	04/16/2004	Olivier Martinot	Q80984	7788

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WASHINGTON, DC 20037

EXAMINER
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MAHMOUDZADEH, NIMA

ART UNIT	PAPER NUMBER
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2477

NOTIFICATION DATE	DELIVERY MODE
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02/23/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com  
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<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/825,243	<b>Applicant(s)</b> MARTINOT ET AL.	
	<b>Examiner</b> NIMA MAHMOUDZADEH	<b>Art Unit</b> 2477	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 13 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: Proposed amendment will not be entered, they raise new issues that require further search. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-18,20-25 and 27-29.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/NIMA MAHMOUDZADEH/  
 Examiner, Art Unit 2477

/Gregory B Sefcheck/  
 Primary Examiner, Art Unit 2477

Continuation of 11. does NOT place the application in condition for allowance because: Continuation of 3. NOTE: In regards to USC 112 rejections, applicant's argument submitted in the after final was persuasive. The examiner withdraws the USC 112 rejection in this advisory action. On page page 12 of the applicant's response, the applicant argued that the prior art of the record fail to teach "constitution of a specific measurement configuration" of claim 1. The examiner respectfully disagrees. As shown in paragraphs [0041] and [0042] of Gous, the bandwidth allocation configuration is done based on a specific routing data gathered and calculated that are being utilized in the changeover sequence process. The bandwidth allocated to any element by a particular connection is zero if it does not pass through the element and if a particular connection does pass through the element, the bandwidth deemed to be allocated to the element is equal to the maximum bandwidth admission level 46 attributed to the relevant connection. On the same page, the applicant argued that the prior art of the record fail to teach, "creating its bandwidth matrix based on the measuring process associated with the node", "function of measuring" nor "overall measurement specifications". The examiner respectfully disagrees. As explained above and Fig. 4 of Gous, the configuration of the bandwidth is done based on the routing/admission data structure. The bandwidth allocation matrix is utilized to present the total bandwidth allocated to each element (node or link) of a network. On page 13 of the applicant's response, the applicant argued that the prior art of the record fail to teach "delivering local measurement" of claim 1. The examiner respectfully disagrees. As discussed above the bandwidth of each node or link that can be a type of measurement of each routing/admission node. Also, FIG. 7 is a block diagram illustrating an acknowledgement 72, which may be sent from each node responsive to successful execution of a received instruction 62. Specifically, the acknowledgement 72 is communicated by each node back to the changeover sequencing module 32 so as to allow the module 32 to determine when all instructions required to implement a specific configuration (e.g., an operational or an intermediate configuration) have been successfully executed. The acknowledgment 72 is shown to include the source node label 64 and also a success field 74 which, if true, indicates that the execution of the changeover instruction 62 was successful. Also, see Fig. 3 which discloses the end to end routes. On pages 15 of the applicant's response, the applicant argued that the prior art of the record fail to teach "passive measuring process which collects information of each type of a data stream and of each packet of the data stream, an active measuring process which collects information on a periodic basis, or a measuring process based on a measurement model generated in advance for a corresponding network domain " of claim 28. The examiner respectfully disagree. As shown in Fig. 8 of Iwama et al. element 1710 which by definition receives data for processing is classified as passive device and the process is called passive process. As shown in Fig. 8, element 1710 located in the gateway device and coupled to PSTN terminal and Zone 1 that is local.. Also, as shown in Fig. 8, for example element 1705 enforces the bandwidth reservation, cancellation, change and monitoring. Specifically the monitoring function means the constant calculation of bandwidth information to ensure the continuity of the communication within the same zone. The remaining rejected claims maintain their rejection.